

AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with ~~performance standards~~ *guidelines* developed by specified entities. ~~The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request.~~ The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the

event that the pupil suffers a seizure when a nurse is not available. The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. The bill would make various legislative findings and declarations and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares ~~that all~~
2 *all of the following:*
3 (1) All individuals with exceptional needs have a right to
4 participate in a free appropriate public education, and that special
5 instruction and services for these individuals are needed in order
6 to ensure they have the right to an appropriate educational
7 opportunity to meet their unique needs in compliance with the
8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
9 1400 et seq.).
10 (b) ~~The Legislature finds and declares that there are specific~~
11 ~~circumstances when it is necessary for nonmedical school staff,~~
12 ~~who have volunteered and been trained, to administer medication~~
13 ~~to pupils. The Legislature further finds and declares that the~~
14 ~~circumstances necessitating nonmedical personnel to administer~~
15 ~~medication to a pupil shall meet the following criteria:~~
16 (2) *The federal Food and Drug Administration has determined*
17 *that Diastat is an emergency medication approved for*
18 *administration by trained, nonmedical persons.*
19 (3) *If all of the following specific circumstances are met, then*
20 *the safety and welfare of a pupil may be compromised,*
21 *necessitating the authorization of nonmedical school staff, who*
22 *have volunteered and been trained, to administer Diastat to a*
23 *pupil:*
24 (1) ~~The~~
25 (A) A pupil's health care provider states that ~~the medication~~
26 *Diastat* must be administered within a timeframe that a licensed
27 medical person or a paramedic cannot reasonably be expected to
28 respond and be available.
29 (2)

1 (B) Failure to administer ~~the medication~~ *Diastat* in a timely
2 manner can reasonably be expected to result in death or permanent
3 physical injury to the pupil.

4 ~~(3) The medication~~

5 (C) *Diastat* and the procedure for ~~the administration of the~~
6 ~~medication~~ *its administration* has been found to be safe from
7 harmful side effects by competent personnel.

8 ~~(e)~~

9 (b) It is the intent of the Legislature that individuals with
10 exceptional needs and children with disabilities under the federal
11 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
12 et seq.) and Section 504 of the federal Rehabilitation Act of 1973
13 (29 U.S.C. Sec. 794) shall have a right to an appropriate
14 educational opportunity to meet their unique needs, and that
15 children suffering from seizures due to epilepsy have the right to
16 appropriate programs and services that are designed to meet their
17 unique needs. In order to meet that goal, it is the intent of the
18 Legislature to authorize nurses to train and supervise employees
19 of school districts and county offices of education to administer
20 *Diastat* to children with epilepsy in the public schools. The
21 American Academy of Pediatrics and the Epilepsy Foundation of
22 America support training of school employees to administer *Diastat*
23 and believe that *Diastat* may be safely and effectively administered
24 by trained school employees. The Legislature further finds and
25 declares that, in the absence of a credentialed school nurse or other
26 licensed nurse onsite at the school, it is in the best interest of the
27 health and safety of children to allow trained school employees to
28 administer *Diastat* to pupils in public schools.

29 SEC. 2. Section 49414.7 is added to the Education Code, to
30 read:

31 49414.7. (a) It is the intent of the Legislature that, whenever
32 possible, *Diastat* should be administered by a school nurse who
33 has been trained in its administration.

34 (b) Notwithstanding Sections 2052 and 2732 of the Business
35 and Professions Code, in the absence of a credentialed school nurse
36 or other licensed nurse onsite at the school, a school district may
37 provide school employees with voluntary emergency medical
38 training to provide emergency medical assistance to pupils with
39 epilepsy suffering from seizures. A school employee with voluntary
40 emergency medical training shall provide this emergency medical

1 assistance in accordance with the ~~standards~~ *guidelines* established
2 pursuant to subdivision (k), and the performance instructions set
3 forth by the licensed health care provider of the pupil. A school
4 employee who does not volunteer or who has not been trained
5 pursuant to subdivision (k) shall not be required to provide
6 emergency medical assistance pursuant to this section.

7 (c) If a pupil with epilepsy has been prescribed Diastat by his
8 or her health care provider, the pupil's parent or guardian may
9 request the pupil's school to have one or more of its employees
10 receive training pursuant to this section in the administration of
11 Diastat in the event that the pupil suffers a seizure when a nurse
12 is not available.

13 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
14 1973, as amended, (29 U.S.C. Sec. 794), upon receipt of the
15 parent's or guardian's request, the school shall notify the parent
16 or guardian that his or her child may qualify for services or
17 accommodations, assist the parent or guardian with the exploration
18 of that option, *including, but not limited to, the development of a*
19 *seizure action plan in accordance with the parent's or guardian's*
20 *direction*, and encourage the parent or guardian to adopt that option
21 if it is determined that the child is eligible for a Section 504 plan.

22 (e) The school may ask the parent or guardian to sign a notice
23 verifying that the parent or guardian was given information about
24 Section 504 of the federal Rehabilitation Act of 1973, and that the
25 parent or guardian understands that it is his or her right to request
26 a Section 504 plan at any time.

27 (f) If the parent or guardian does not choose to have the pupil
28 assessed for a Section 504 plan, the school may create an
29 individualized health plan, seizure action plan, or other appropriate
30 health plan designed to acknowledge and prepare for the child's
31 health care needs in school. The plan may include the involvement
32 of trained volunteer school employees.

33 (g) If a school decides to train school employees pursuant to
34 this section, the school shall distribute an electronic notice to all
35 staff that states all of the following:

36 (1) The notice is a request for volunteers to administer Diastat
37 to a pupil experiencing a severe epileptic seizure, in the absence
38 of a school nurse.

39 (2) Diastat is an FDA-approved, predosed, rectally administered
40 gel that reduces the severity of epileptic seizures.

1 (3) A volunteer will receive training from a licensed health
2 professional regarding the administration of Diastat.

3 (4) Any agreement by an employee to administer Diastat is
4 voluntary, and no employee of the school or district shall directly
5 or indirectly use or attempt to use his or her authority or influence
6 for the purpose of intimidating, threatening, coercing, or attempting
7 to intimidate, threaten, or coerce, any staff member who does not
8 choose to volunteer.

9 (h) If there are no volunteers, then the school shall renotify the
10 pupil's parent or guardian of the option to be assessed for services
11 and accommodations guaranteed under Section 504 of the federal
12 Rehabilitation Act of 1973.

13 (i) A school that chooses to participate pursuant to this section
14 shall have in place a school plan that shall include, but not be
15 limited to, all of the following:

16 (1) Identification of existing licensed staff within the district or
17 region who could be trained in the administration of Diastat and
18 could be available to respond to an emergency need to administer
19 Diastat. The school shall consult with the school district or county
20 office of education to obtain this information.

21 (2) Identification of pupils who may require the administration
22 of Diastat.

23 (3) Written authorization from the parent or guardian for a
24 nonmedical school employee to administer Diastat.

25 (4) The requirement that the parent or guardian notify the school
26 if the pupil has had Diastat administered within the past four hours
27 on a schoolday.

28 (5) Notification of the parent or guardian that Diastat has been
29 administered.

30 (6) A written statement from the pupil's health care practitioner
31 that shall include, but not be limited to, all of the following:

32 (A) The pupil's name.

33 (B) The name and purpose of the medication.

34 (C) The prescribed dosage.

35 (D) ~~The length of time the seizure may continue before~~ *Detailed*
36 *seizure symptoms, including frequency, type, or length of seizures*
37 *that identify when the administration of Diastat becomes necessary.*

38 (E) The method of administration.

39 (F) The frequency with which the medication may be
40 administered.

1 (G) The circumstances under which the medication may be
2 administered.

3 (H) Any potential adverse responses by the pupil and
4 recommended mitigation actions, including when to call emergency
5 services.

6 (I) A protocol for observing the pupil after a seizure, including,
7 but not limited to, whether the pupil should rest in the school office,
8 whether the pupil may return to class, and the length of time the
9 pupil should be under direct observation.

10 (j) A school that chooses to allow volunteers to administer
11 Diastat shall compensate a volunteer when the administration of
12 Diastat and subsequent monitoring of a pupil requires a volunteer
13 to work beyond his or her normally scheduled hours.

14 (k) (1) The Legislature encourages the Epilepsy Foundation of
15 America to develop ~~performance standards~~ *guidelines* for the
16 training and supervision of school employees in providing
17 emergency medical assistance to pupils with epilepsy suffering
18 from seizures. The ~~performance standards~~ *guidelines* may be
19 developed in cooperation with the State Department of Education,
20 the California School Nurses Organization, the California Medical
21 Association, and the American Academy of Pediatrics. ~~Upon~~
22 ~~development of the performance standards, the State Department~~
23 ~~of Public Health may approve the performance standards for~~
24 ~~distribution and make those standards available upon request.~~

25 (2) Training established pursuant to this subdivision shall
26 include, but not be limited to, all of the following:

27 (A) Recognition and treatment of different types of seizures.

28 (B) Administration of Diastat.

29 (C) Basic emergency followup procedures, including, but not
30 limited to, calling the emergency 911 telephone number and
31 contacting the pupil's parent or guardian.

32 (D) Techniques and procedures to ensure pupil privacy.

33 (3) Training established pursuant to this subdivision shall be
34 conducted by one or more of the following:

35 (A) A physician and surgeon.

36 (B) *A physician and surgeon's assistant.*

37 ~~(B)~~

38 (C) A credentialed school nurse.

39 ~~(C)~~

40 (D) A registered nurse.

1 ~~(D)~~

2 (E) A certificated public health nurse.

3 (4) Training provided in accordance with the ~~performance~~
4 ~~standards~~ *manufacturer's instructions, the pupil's health care*
5 *provider's instructions, and guidelines* established pursuant to this
6 section shall be deemed adequate training for purposes of this
7 section.

8 (5) (A) A school employee shall notify the credentialed school
9 nurse assigned to the school district if he or she administers Diastat
10 pursuant to this section.

11 (B) If a credentialed school nurse is not assigned to the school
12 district, the school employee shall notify the superintendent of the
13 school district, or his or her designee, if he or she administers
14 Diastat pursuant to this section.

15 (C) A school shall retain all records relating to the administration
16 of Diastat while a pupil is under the supervision of school staff.

17 (6) The pupil's parent or guardian shall provide all materials
18 necessary to administer Diastat, including the information described
19 in paragraph (6) of subdivision (i). A school shall not be
20 responsible for providing any of the necessary materials.

21 (l) For purposes of this section, "Diastat" means diazepam rectal
22 gel, marketed as Diastat AcuDial, approved by the federal Food
23 and Drug Administration for patients with epilepsy for the
24 management of seizures.

25 (m) This section shall remain in effect only until January 1,
26 2017, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2017, deletes or extends that date.